

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

ATTORNEYS:

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For Rhudel Huyghue.

ORDER

GÓMEZ, J.

Before the Court is the motion of Rhudel Huyghue ("Huyghue") to exclude the testimony and report of the United States's proposed expert witness, Carmelo Gomez ("Gomez").

On June 28, 2017, the Grand Jury returned an indictment charging Huyghue with (1) conspiracy to possess with intent to distribute cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846; (2) possession with intent to distribute cocaine in violation of 21 U.S.C. § 841(a)(1); and (3) money laundering conspiracy in violation of 18 U.S.C. § 1956(h).

Huyghue was arraigned on August 10, 2017. Following Huyghue's arraignment, the Magistrate Judge entered a scheduling order for this matter. In relevant part, the scheduling order provided that expert disclosures were to be filed by September 15, 2017.

At 9:13 A.M. on August 25, 2017, the United States filed a document captioned "United States' Notice of Expert Witness" (the "notice"). See ECF No. 48. The notice indicated that the United States intended to have Gomez testify at Huyghue's trial "as to the kinds, amounts, net and gross weights, purity, and form of the narcotics." *Id.* The notice stated that "[a] copy of the Laboratory Report and Mr. Gomez's Curriculum Vitae [("CV")] are attached as Exhibits A and B, that were previously disclosed in discovery." *Id.*

Exhibit A to the notice is a lab report on 18,673 grams of a substance determined to be cocaine. The report indicates that the analysis was conducted by Gomez. Exhibit B is Gomez's CV.

At 3:58 P.M. on August 25, 2017, the United States filed a document captioned "United States' Corrected Notice of Expert Witness" (the "corrected notice"). See ECF No. 49. The corrected notice indicated that the United States intended to have Scott W. Goodlin ("Goodlin"), a forensic chemist, testify "as to the kinds, amounts, net and gross weights, purity, and form of the narcotics." *Id.* The corrected notice stated that "[a] copy of the Laboratory Report, Mr. Goodlin's [CV], and a Summary of Testimony are attached as Exhibits A, B and C, which were previously disclosed in discovery." *Id.*

Exhibit A to the corrected notice is a lab report on 2,872 grams of a substance determined to be cocaine. The lab report indicates that the analysis was conducted by Goodlin. Exhibit B is Goodlin's CV. Exhibit C is a summary of Goodlin's proposed testimony.

On August 29, 2017, Huyghue filed a motion to exclude Gomez's testimony and report. Huyghue asserted that neither the lab report prepared by Gomez nor Gomez's CV had been previously disclosed during discovery. Huyghue sought to exclude Gomez's testimony and his report pursuant to Federal Rule of Civil Procedure 16 ("Rule 16").

On November 22, 2017, the United States responded to Huyghue's motion to exclude. The United States indicated that it

did not intend to call Gomez as a witness and the notice indicating as much was in error. Instead, the United States intended to call Goodlin as an expert, as stated in the corrected notice. As such, the United States indicated that it does not oppose Huyghue's motion to exclude Gomez's testimony and report.

The premises considered, it is hereby

ORDERED that, insofar as they seek to exclude the testimony of Carmelo Gomez and Carmelo Gomez's report, the motions to exclude docketed at ECF Numbers 53, 73, and 82 are **MOOT**.

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**Curtis V. Gómez
District Judge**